

**IN THE UNITED STATES OF DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALARM DETECTION SYSTEMS, INC.,)
An Illinois corporation,)
)
Plaintiff,) Case No. 14 cv 876
)
vs.) Hon. Judge Thomas Durkin
) Hon. Magistrate Judge Jeffrey T. Gilbert
)
BLOOMINGDALE FIRE PROTECTION)
DISTRICT, et al.,)
)
Defendants.)

**MOTION TO STAY BRIEFING ON PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT AND TO STAY
DEADLINE FOR FILING OF CROSS MOTIONS FOR SUMMARY JUDGMENT**

NOW COMES the Defendant, DUPAGE PUBLIC SAFETY COMMUNICATIONS (hereinafter "DU-COMM"), by and through one of its attorneys, MICHAEL D. BERSANI of HERVAS, CONDON & BERSANI, P.C., and moves for an order staying briefing on Plaintiff's Motion for Partial Summary Judgment and this Court's deadline for Defendants to file cross motions for summary judgment.

In support of this motion, DU-COMM states the following:

1. On October 13, 2015, this Court entered an order granting leave to Plaintiff Alarm Detection Systems, Inc. (hereinafter "ADS") to file a second amended complaint. In addition to re-alleging claims against existing defendants, ADS added DuPage Public Safety Communications ("DU-COMM") as a party Defendant.

2. Previously, DU-COMM was allowed to intervene in this litigation to protect its interests relative to claims and allegations made by ADS against former Defendant Bloomingdale Fire Protection District ("Bloomingdale").

3. On November 26, 2014, Bloomingdale was dismissed from this lawsuit pursuant to settlement with ADS.

4. On September 8, 2015, this Court entered a memorandum opinion and order, addressing motions to dismiss filed by the remaining Defendants, Orland Fire Protection District (ðOrlandö) and Tyco Integrated Security, LLC (ðTycoö). In addressing those motions, this Court necessarily considered allegations previously made against Bloomingdale, as those allegations were relevant towards evaluating the claims against Tyco. Most notably, this Court dismissed all counts that related to Bloomingdaleøs alleged conduct.

5. Upon reviewing the second amended complaint, it is readily apparent that the claims against DU-COMM as a Defendant do not state a cause of action upon which relief may be granted and should be dismissed. Indeed, some of those grounds for this courtøs previous dismissal order are applicable to the counts now alleged against DU-COMM in the second amended complaint.

6. On October 15, 2015, ADS filed a motion for partial summary judgment.

7. While Federal Rule 56 permits the filing of a motion for summary judgment before an answer is filed, ñin many cases the motion will be premature until the non-movant has had time to file a responsive pleading or other pre-trial proceedings have been had. Scheduling orders and other pre-trial orders can regulate timing to fit the needs of the case.ö F.R.C.P. 56(b) Advisory Committee Note to 2010 amendments.

8. On October 14, 2015, this Court entered a briefing schedule, directing Defendants, including DU-COMM, to file responsive pleadings and respond to ADSø motion for partial summary judgment and file cross motions for summary judgment, by November 11, 2015.

9. Defendant DU-COMM anticipates filing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) by the November 11th deadline in compliance with this Court's order.

10. However, ADS's motion for partial summary judgment is premature. Defendant DU-COMM should not have to simultaneously respond to ADS's motion for partial summary judgment and file a cross motion for summary judgment, until the parties are at issue on the pleadings.

11. The undersigned has conferred with the attorneys representing Defendants Tyco and Orland. Both plan on filing Rule 12(b)(6) motions to dismiss and join in this motion.

12. The undersigned left a telephone message for counsel for ADS relating the substance of this motion. Counsel of ADS has not yet responded to that message and, therefore, it is unknown at the time of filing whether ADS agrees or opposes this motion.

WHEREFORE, for the foregoing reasons, the Defendant DUPAGE PUBLIC SAFETY COMMUNICATIONS (DU-COMM) respectfully moves that this Honorable Court stay briefing on Plaintiff's motion for partial summary judgment and further stay its order directing Defendants to file cross motions for summary judgment, until Defendants' Rule 12(b)(6) motions to dismiss are fully briefed and decided.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2015, I electronically filed the foregoing **Motion to Stay Briefing on Plaintiff's Motion for Partial Summary Judgment** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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